5 Fb 6

1954 **File No.** 556/48

CLASS P. W. **DEPARTMENT** & **BRANCH** (C)

Subject:—Workers Provident Fund.
Grant of-to certain Class of labourers.
Bill for the - by (Shree R.K. Sidhawa) M. C.A.

V

B I K 11949

File No. 556/48-E(1)

Ftd. Scott. Slip. 24 A

G.R., G.D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No. 556/48

P. W. **DEPT.**

8 (11) **BRANCH.**

References :—

Date	To whom sent.	Notes and instructions.

556/48/39902

P.W.D.

E.B(II)

The case deals with the 'Workers' Provident Fund Bill' proposed to be inacted by Shri R.K.Sidhwa, Member of the constituent Assenbly. In G.L.No. 556/48-E(II), dt. the 26th April, 1949, the local officers were requested to offer their remarks in respect of each clause of the Bill.

2- Some of the local officers have raised the point as to whether this Bill is at all applicable to the persons employed on Govt. works In that case, Govt. will be the employer on whom the clauses of the Bill will be binding. This Deptt. may agree that it should be made applicable to persons employed on Govt. works also to whom pensionary benefits are not granted. However, the point is for the R.L.A. to decide.

3. Assuring, however, that the bill does apply to the persons employed on Govt. works, the following remarks are offered.

4 Clauses 1 to 3, 4 (extept 4(2)), 5, 7 and 9 to 12 (except 12(c))

No comments are necessary.

5. Clause 4(2) This clause states that the subscription should be made compulsory after 1 year The S.E., S.G.C. proposes that compulsory contribution may be modified making those with 2 years' service, eligible to the fund. This Deptt. may agree with the view of the S.E.

6. Clause 6:- Clause to states that at the commencement of each month the employer shall contribute to the fund double the sum made by the worker, except in the case of death, retirement or dismissed of the subscriber.

Majority of the local officers differ on this point. We may agree with the local officers that the rate of contribution of the employer should be the same as subscribed

by.....

by the employee, subject to the maximum of 6½ % and not double the amount as proposed in this clause. The local officers have suggested that the employer's contribution should be yearly instead of monthly. It seems, however that if Govt. contribution is paid six monthly as in the case of officers on agreement in El.Grid, the purpose will be served.

7 Clause 8 :-Clause 8 of the Bill lays down that the subscriber shall be entitled to receive his and his employer's contribution forthwith after 10 years service, when he leaves service, resigns or is dismissed or discharged.

As dimiss might hav been nece ssary for any reason it does not appear necessary to qualify the word d: ssed as suggested by the S.E./ E.C.

The S.E, E.C. proposes that the words 'or dismissed' may be subsitituted by words dismissal for gross misconduct' This Deptt may accept the S.E.'s proposal in principle but the following words may be substituted for the words 'dismissed' "or dismissed for negligence in discharging duties."

The sub clause of clause 8 states that the subscriber should be entitled to receive his and his employer's contribution if the subscriber leaves, resigns or is discharges or dismissed. This Deptt. may suggest that in case of discharge removal and illness the employee should be entitled to his as well as his employer's contribution forthwith, But in case of resignation and dissmissal for neglience of duties, the employee should be entitled to his contribution only forthwith

This is but reasonable in the case of dismissed only. If the employee has resigned for domestic reasons he may not be denied the benefit of the employer's share

8 Clause 12(c) :- The clause states that the employer may, with the previous sanction of Govt.of India make rules not inconsistent with provision of the Act, to carry into effect the purposes and objects of this Act. The rules mentioned there under are consistant coith general object of the Bill, except clause 12(c). In respect of this sub-clause, this Deptt. may suggest a modification that if the advances are to be made, the rules of G.P. fund now in vogue should be made applicable in this case also. i.e. the maximum amount of an advance admissible, (in the circumstances stated in this clause), should be equal to 3 months.....

months' pay ot ½ the contribution of the subscribe. to the fund whichever is less- The Govt.contribution against such advance,if drawn,should be deducted from the subscriber's account forthwith.Govt. contribution should not be counted for advances as it is mainly made with a view to provide for the family of the subscriber as also to encourage employees to lay by something for their families.

I agree with this para of the note

Id/-
25/6/49

9. If approved copies of paras 2 to 8 of the office note will be forwarded to the Labour Deptt. with reference to that Deptt. Express letter under disposal; as per draft put up.

Yes, subject to modification suggested by me.
Id/-
25/6/49

Id/-
23/6/49.

Marginal

Id/-
25/6/49

Id/-
26/6/49

No. 645/48/8162-D,
Labour Department,
Bombay Castle, 19th October 1949.

Very Urgent.

From

N.K.Dravid,Esquire,I.C.S.,
Secretary to the Government of Bombay,
Labour Department.

To

The Secretary to the Government of India,
Legislative Assembly Department,
New Delhi.

Subject:- The Workers' provident Fund Bill
by Shir R.K.Sidhva,
Member of constituent Assembly.

Sir,

In Continuation of this Department express letter No. 645/48-D, dated the 2nd August 1949, on the above subject, I am directed to state that the Government of Bombay is in general agreement with the principles embodies in the workers Provindent Fund Bill. The subject of complusory Provident Fund for industrial Workers was dissussed at the tenth session of the standin Labour Committee held on the 15th-17th April 1948, In view or this the Covernment of Bombay conciders that it would be desirable if the Government of Indian themselves take up legislation on the Subject instead of considering a private bill, which, as it stands, suffers from ~~served~~ several drafting lapses ad needs to be modified so as to being it in line with Chapeter IX-A of the Indian Income Tax Act, 1922.

2. If as it appears to be the intention the administration of the fund is to be left to employers, group provident fund which would be more convenient for administration than individual fund may be considered by the Government of India.Further the scheme may be introduced in orginised industries only to begin with.

3. A contributory provident fund as envisaged in the Bill will hot be necessary inthe case of Govern ment.....

undertakings where pensions are available.Such establishments will have to be exempted from the scope of the Bill.A provision may also be made in the Bill for grant of exemption by the appropriate Government.

4.The Government of Bombay has the following comments to make on the various clauses of the Bill viz:

Clause 2. The established practice of claculating contributions on the basis of basic wage exclusive of the temporary and varying additions to pay such as dearness allowances, overtime, bouns or commission should be followed. The defination of 'Wages' may be suitably modified-

The words "such as" in sub-clause(c) appear to indicate that the three establishments mentioned are illustrative add not exhaustive. In orde to remove any doubts all establishments to be covered should be specified, Provision may also be made to empower Government to add to the list of establishments covered by the Bill.

Clause 3. The terms'Workman and 'labourer' appear to Commote one and the same thing.The word 'labourer' may therefore be omitted.

The reponsibility of opening a provident fund account may be thrown on the employer, who should open an account for every worker in his undertaking who satisfice the minimum requirements of service,wages,etc. The slause may be suitably modified.

Rules for administration and management of the fund should conform to such model rules are may be curculated by the Government of India for the purpose.A suitable provision may be inserted in the Bill.

The words'Provident Fund meed to be defined.The definition may be on the lines of the definiation given in Section 2(c) of the Provident Funds Act, 1925.

Clause 4. The clause may be modified so as to conform to Rule 3 of the Model Provident Fund Rules framed by the Government

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of India for industrial Worker.The service qualifications prescribed in Rule 3 of the Model Rules may be adopted for temporary workers also.

Agricultural workers may be specifically excluded from the scope of the Bill.

Clause 5.The rate of 6¼% for subscription appears to be most suitable and has also been prescribed by Rule 6 of the Model Rules for Provident Fund framed by the Government or India. This rate may be adopted.

Clause 6. The established pratice of the employer contributing at the rate equal to the rate of employees' contribution may be followed. In accordance with Rule 8 of the Model Rules for Provident Fund framed by the Government of India the employer's and the subscriber's contribution is to be credited to the Fund not later than the 15th of the Month in which the subscriber's subscription is deducted from wages.Similar provision may be inserted and the clause may be suitably modified.

Clause 7:Clause12(2) (b) provides for grant of advances to subscribers for which ready cash will be necessary.Liquid funds will also be required for meeting expenses on the administration of the Fund and for refunds.The clause may have to be modified to provide for liquid funds.

Clause 8. In cases where the workers leave service before putting in the necessary minimum service they are usually disqualified from employer's contribution. Similarly in cases of dismissal for misconduct a worker forfiets the right to employer's contribution irrespective of length of service.The service condition may be waived in cases of death, discharge or resignation on account of permanent incapacity certified by a

medical.....

medical practtioner.

The service qualification of 10 years is considered too long and may be reduced to 5 years, on the lines of chapter IX-A of the Indian Income-Tax Act. The clause may be modified accordingly.

The Government of India may also consider whether it should be made clear in the Bill as to how the interest accrued during the period less than the qualifying period laid down should be appropriated.

Clause 9: The term "Compulsory deposit" has not been defined in the Bill. It would be desirable to define it so as to include not only the subscriptions or contributions to a Provident Fund but also any interest or increment which may have accrued on any such subscription etc. under the Rules of the Fund.

A specific provision may also be inserted prohibiting the employer from making any deductions from the compulsory deposits.

Clause 10. There may be cases in which the workers may contravene rules a framed under the Act and penalty in such cases will have to be very much lower than that prescribed for the employer. Separate provi icial may accordingly to made for penalty for workers The effence may be made a continuing effence with daily penalty.

Clause 12.

Sub/Clause(1) Provision may be made for framing of model rules by the appropriate Government.

Sub/Clause(2)(b) the Government of India may consider the suggestion made by the Millowners Association, Bombay, the Silk and Art silk Mills Association, and others o-n the question of fixation of rate of interest.

Sub/Clauses (2)(c)and (2)(d) - please see comments on clause 7 above.

Sub/Clause(2)(c) The terms "family" and "children" may be defined on the lines of the definition given in the Model Rules for Provident Fund framed by the Government of India.

Sub-Clause(2)(g)- Provision may be made to ensure that a worker with a family is not free to assign the fund to anyone outside the family.

A duplicate copy of this letter is sent as requested by the Government

of India.

Yours faithfully,

Sd/-
For Secretary to the Government of Bombay,
Labour Department.

Copy forwarded with compliments for information to:/

The Commissioner of Labour.
The Health and Local Government Department,
The Development Department,
The Revenue Department,
The Agriculture and Forests Department,
The Public Works Department,
The Home Department,
The Finance Department,
The Political and Services Department.

KSG/6/7/56.